

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Lisa Starr

Serial No.: 10/779,989

Confirmation No.: 8890

Filed: February 17, 2004

For: DISPOSABLE AMPOULE
OPENERS

Group Art Unit: 3724

Examiner: Stephen Choi

Customer No.: 85740

MAIL STOP AMENDMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

CERTIFICATE OF ELECTRONIC
FILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with 37 CFR 1.6(a)(4).

May 27, 2009
Date

Douglas H. Elliott

Dear Sir:

RESPONSE TO OFFICE COMMUNICATION DATED APRIL 27, 2009

In the Office Communication dated April 27, 2009, having a shortened statutory period for response set to expire on May 27, 2009, the Primary Examiner stated that the reply filed on February 6, 2009, appeared to be bona fide, but was not fully responsive to the prior Office Action because the Applicant must identify a listing of the added claims that are readable on the elected invention/species.

In the Restriction Requirement dated October 14, 2004, claims 20-35 were restricted to four groups of claims, namely, Group I (claims 21-23 and 25); Group II (claims 24 and 33-34); Group III (claims 26-27); Group IV (claims 24 and 35) and Group V (claim 32). That Restriction Requirement also indicated that claim 20 was a linking claim for Groups I-V. In that Restriction Requirement, Applicant was required to elect one of the disclosed species, identified as Species A (Figures 1-6) and Species B (Figures 7-9).

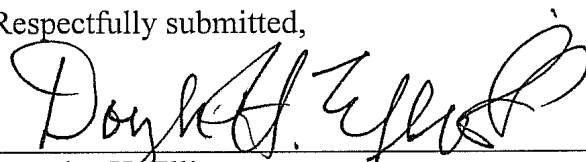
On November 12, 2004, the Applicant filed a Response to Restriction Requirement Dated October 14, 2004, wherein he provisionally elected, with traverse, Group II (claims 24 and 33-

34); and elected to prosecute Species A (Figures 1-6), on which read all the then-pending claims (claims 20-35).

Applicant submits that all the claims that are now pending (claims 35-63) are readable on the Group II claims that were elected (claims 24 and 33-34) and are also readable on the elected Species A (Figures 1-6). For example, original claim 24, which was part of elected Group II, recites “wherein the elongated housing member includes two sections hingedly connected to one another. Correspondingly, currently-pending independent claims 35 and 43 both recite the limitation, “a first elongated housing section and a second elongated housing section hingedly connected to the first elongated housing section,” and that limitation is implicitly part of dependant claims 36-42. Original claims 33 and 34 both recite one or more inner ribs. Correspondingly, currently-pending claim 44 recites “at least one inner rib or rib section that fully or partially circumscribes at least a portion of the inner housing end, to clamp the ampoule at the neck portion.” That limitation is implicitly part of dependent claims 45-63. Claims 35-63 are also all readable on elected Species A (Figures 1-6). Accordingly, Applicant submits that the “line of demarcation” between the groups of claims that were restricted (Groups I-V) has been maintained, and currently pending claims 35-63 are “consonant” with the Group II claims (24 and 33-34) that were elected. See, e.g., M.P.E.P. 804.01 and 814.

Applicant believes no fees are required; however, the Commissioner is hereby authorized to charge counsel’s credit card, for any fees, including extension of time fees or excess claim fees, required to make this Response timely and acceptable to the Office.

Respectfully submitted,



Douglas H. Elliott
Registration No. 32,982
MARTIN, DISIERE, JEFFERSON & WISDOM, L.L.P.
808 Travis Street
Suite 1800
Houston, Texas 77002
Telephone: (713) 632-1700
Facsimile: (713) 222-0101
Attorney for Applicant